

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

JOSHUA HOPE,	:	
	:	
Plaintiff,	:	07-CV-4726 (RJS)
	:	
-against-	:	AFFIDAVIT OF
	:	JOSEPH BREED
U.S. DEPARTMENT OF HOUSING AND URBAN	:	IN SUPPORT OF
DEVELOPMENT, ST. MARGARET HOUSE and	:	MOTION TO DISMISS
JOSEPH BREED,	:	<u>THE COMPLAINT</u>
	:	
Defendant.	:	

-----X

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

JOSEPH BREED, being duly sworn, deposes and says:

1. I am the Executive Director of St. Margaret's House, a not-for-profit housing facility operated by St. Margaret's House Housing Development Fund Corporation, located at 49 Fulton Street, New York, New York. I make this affidavit in support of the motion to dismiss filed on behalf of St. Margaret's House and myself.

2. St. Margaret's House admits low-income elderly or handicapped individuals (and their families) who meet the criteria for participation in the Section 8 housing program established by the United States Housing Act of 1937. The vast majority of St. Margaret's residents are Asian-American, like plaintiff.

3. The plaintiff, Mr. Joshua Hope, is a holdover tenant of St. Margaret's House and is the subject of an eviction proceeding pending in the New York City Civil Court, New York County, under L&T Index No. 102744/06. That proceeding is ongoing. For the

purposes of this motion, suffice it to say that St. Margaret's petition in the eviction proceeding alleges that plaintiff violated a substantial obligation of his lease through a litany of aggressive actions directed toward the tenants and employees of St. Margaret's House, including almost two dozen specifically identified episodes (supported by statements from numerous staff members, as well as by incident reports) in which plaintiff physically or verbally harassed or threatened such individuals. A copy of the petition in that proceeding is annexed hereto as Exhibit A.

4. On July 11, 2007, I was advised by Josephine Chung, the Coordinator for Maintenance, Housekeeping, and Security for St. Margaret's House, that one copy of the complaint herein and one copy of the civil cover sheet were delivered to her without any envelope, label or other indication as to the intended recipient. Affidavit of Josephine Chung in Support of St. Margaret's House and Joseph Breed's Motion to Dismiss the Complaint, sworn to on November 13, 2007 (the "Chung Affidavit"), ¶ 3. No summons was served then or at any other time. Id. To my knowledge, neither the summons nor the complaint was ever served by mail or in any other manner to St. Margaret's House or Mr. Breed.

5. Ms. Chung, an employee responsible for maintenance, housekeeping, and security at St. Margaret's House, cannot be considered a "managing or general agent" for St. Margaret's House, nor was she otherwise authorized to accept service on behalf of St. Margaret's House. She has never been an officer or director of St. Margaret's House or a cashier or assistant cashier for St. Margaret's House.

6. I am advised by counsel that, under the foregoing circumstances, neither St. Margaret's House nor I have been properly served in this action.

WHEREFORE, on behalf of defendants St. Margaret's House and Joseph Breed, and for the reasons set forth herein, and in the Affidavits of Josephine Chung and Matthew S. Fenster, and the accompanying memorandum of law, I respectfully request that the Court enter

an Order (i) dismissing the complaint in its entirety as against St. Margaret's House and myself;
and (ii) granting St. Margaret's House and myself such other and further relief as the Court may
deem just and proper.

s/Joseph Breed

Joseph Breed

Sworn to before me this
13th day of November, 2007.

s/Notary Public

Notary Public